

AN ORDINANCE TO AMEND AND RE-ENACT CHAPTER 5 OF THE CODE OF THE CITY OF HAMPTON, VIRGINIA, PERTAINING TO “ANIMALS” BY AMENDING ARTICLE I, SECTION 5-2 “DEFINITIONS,” AND AMENDING SECTIONS 5-4 – 5-6 CONCERNING ANIMAL CONTROL OFFICERS; AMENDING ARTICLE III BY RENAMING IT “DOGS AND CATS GENERALLY, AND AMENDING SECTIONS 5-37 – 5-39, ADDING THERETO A NEW SECTION 5-43 “UNLAWFUL CARE OF FERAL CATS;” AND AMENDING ARTICLE IV AND RENAMING IT “DOG AND CAT LICENSES.”

BE IT ORDAINED by the Council of the city of Hampton, Virginia that the Code of the City of Hampton, Virginia be amended and re-enacted to read as follows:

Article I. GENERALLY

Sec. 5-2. Definitions.

Unless otherwise expressly stated or the content clearly indicates a different intention, the following words and terms shall, for the purposes of this chapter, have the meaning indicated in this section:

Abandon means to desert, forsake, or absolutely give up an animal without having secured another owner or custodian for the animal or by failing to provide the elements of basic care as set forth in Virginia Code § 3.1-796.68 for a period of five consecutive days.

Adequate care or *care* means the responsible practice of good animal husbandry, handling, production, management, confinement, feeding, watering, protection, shelter, transportation, treatment, and, when necessary, euthanasia, appropriate for the age, species, condition, size and type of the animal and the provision of veterinary care when needed to prevent suffering or impairment of health.

Adequate exercise or *exercise* means the opportunity for the animal to move sufficiently to maintain normal muscle tone and mass for the age, species, size, and condition of the animal.

Adequate food ~~means the provision, at suitable intervals, not to exceed twenty-four (24) hours, of quantities of wholesome foodstuff, suitable for the species and age, sufficient to maintain a reasonable level of nutrition in an animal~~ or *feed* means access to and the provision of food that is of sufficient quantity and nutritive value to maintain each animal in good health; is accessible to each animal; is prepared so as to permit ease of consumption for the age, species, condition, size and type of each animal; is provided in a clean and sanitary manner; is placed so as to minimize contamination by excrement and pests; and is provided at suitable intervals for the species, age, and condition of the animal, but at least once daily, except as prescribed by a veterinarian or as dictated by naturally occurring states of hibernation or fasting normal for the species.

Adequate shelter means ~~that dogs and cats kept outdoors must be provided with moisture proof, wind proof shelters at least four (4) inches off the ground of a size which allows the~~

~~animal to turn around, sit and lie easily and freely in a normal position and to keep the animal clean, dry and comfortable~~ provision of and access to shelter that is suitable for the species, age, condition, size, and type of each animal; provides adequate space for each animal; is safe and protects each animal from injury, rain, sleet, snow, hail, direct sunlight, the adverse effects of heat or cold, physical suffering, and impairment of health; is properly lighted; is properly cleaned; enables each animal to be clean and dry, except when detrimental to the species; and, for dogs and cats, provides a solid surface, resting platform, pad, floormat, or similar device that is large enough for the animal to lie on in a normal manner and can be maintained in a sanitary manner. Under this chapter, shelters whose wire, grid, or slat floors (i) permit the animals' feet to pass through the openings, (ii) sag under the animals' weight, or (iii) otherwise do not protect the animals' feet or toes from injury are not adequate shelter.

Adequate space means sufficient space to allow each animal to (i) easily stand, sit, lie, turn about, and make all other normal body movements in a comfortable, normal position for the animal and (ii) interact safely with other animals in the enclosure. When an animal is tethered, adequate space means a tether that permits the above actions and is appropriate to the age and size of the animal; is attached to the animal by a properly applied collar, halter, or harness configured so as to protect the animal from injury and prevent the animal or tether from becoming entangled with other objects or animals, or from extending over an object or edge that could result in the strangulation or injury of the animal; and is at least three times the length of the animal, as measured from the tip of its nose to the base of its tail, except when the animal is being walked on a leash or is attached by a tether to a lead restricting movement of the animal according to professionally accepted standards for the species is considered provision of adequate space.

Adequate water means ~~a constant access to a supply of clean, fresh, potable water provided in a sanitary manner or provided at suitable intervals and in a suitable manner for the species and not to exceed twenty-four (24) hours at any interval~~ provision of and access to clean, fresh, potable water of a drinkable temperature that is provided in a suitable manner, in sufficient volume, and at suitable intervals, but at least once every 12 hours, to maintain normal hydration for the age, species, condition, size and type of each animal, except as prescribed by a veterinarian or as dictated by naturally occurring states of hibernation or fasting normal for the species; and is provided in clean, durable receptacles that are accessible to each animal and are placed so as to minimize contamination of the water by excrement and pests or an alternative source of hydration consistent with generally accepted husbandry practices.

Adoption means the transfer of ownership of a dog or a cat, or any other companion animal, from a releasing agency to an individual.

Agricultural animals means ~~cattle, horses, swine, sheep, goats and poultry~~ all livestock and poultry.

Ambient temperature means the temperature surrounding the animal.

Animal means ~~domestic animals, including both agricultural and companion animals, if not specified otherwise~~ any nonhuman vertebrate species except fish. For the purposes of § 5-77

of the Hampton City Code, animal means any species susceptible to rabies. For the purposes of Article VI of the Hampton City Code, animal means any nonhuman vertebrate species including fish except those fish captured and killed or disposed of in a reasonable and customary manner.

Animal control officer or Animal warden means a person appointed as an animal control officer or deputy animal control officer as provided in Va Code § 3.1-796.104.
~~any person employed, contracted or appointed by the city for the purpose of aiding in the enforcement of this chapter or any other ordinance relating to the licensing of dogs and cats, control of dogs and cats, seizure and impoundment of dogs and cats or cruelty to animals. The term applies to any state or municipal police officer, animal control officer, sheriff, constable or other employee whose duties, in whole or in part, include assignments which involve seizure or taking into custody of any dog, cat or other animal.~~

Animal shelter means a facility, other than a private residential dwelling and its surrounding grounds, which is used to house or contain animals and which is owned, operated, or maintained by a nongovernmental entity including, but not limited to, a humane society, animal welfare organization, society for the prevention of cruelty to animals, or any other organization operating for the purpose of finding permanent adoptive homes for animals.
~~a duly incorporated humane society, animal welfare society, society for the prevention of cruelty to animals or other nonprofit organization devoted to the welfare, protection and humane treatment of animals.~~

At large shall mean off the premises of the owner and not under the control of the owner or his agent, either by a leash, cord or chain, not exceeding eight (8) feet in length, or off the premises of the owner and not accompanied by and under the complete and immediate control of a person competent to control the animal, except that a dog shall not be considered at large, if ~~during the hunting season~~, it is on a bona fide hunt in the city in the company of the hunter.

Boarding kennel or establishment means a place or establishment, other than a pound or shelter, where companion animals not owned by the proprietor are sheltered, fed and watered in exchange for a fee, but shall not include training or show kennels.

Collar means a well-fitted device, appropriate to the age and size of the animal, attached to the animal's neck in such a way as to prevent trauma or injury to the animal.

Companion animals means dogs, both domestic and feral; cats, both domestic and feral; monkey and all members of the monkey family or other nonhuman primates; guinea pigs; hamsters; rabbits not raised for human food or fiber; exotic or native animals; reptile; ~~and~~ exotic and native birds; or any feral animal or any animal under the care, custody, or ownership of a person or any animal that is bought, sold, traded, or bartered by any person. Agricultural animals, ~~G~~game species, or any animals regulated under federal law as research animals shall not be considered companion animals for the purpose of this chapter.

Dealer means any person who, in the regular course of business for compensation or profit, buys, sells, transfers, ~~except as a common carrier~~, exchanges or barter companion animals. The following shall not be considered dealers: (i) any person who transports companion animals in the regular course of business as a common carrier or (ii) any person or

organization whose primary purpose is to find permanent adoptive homes for companion animals.

Direct and immediate threat means any clear and imminent danger to an animal's health, safety or life.

Emergency veterinarian treatment means veterinary treatment to stabilize a life-threatening condition, alleviate suffering, prevent further disease transmission, or prevent further disease progression.

Enclosure means a structure ~~conforming to the policy and purpose of the Virginia Animal Welfare Act of 1977 (Code of Virginia, section 31.796.39 et. seq.)~~ and used to house or restrict animals from running at large.

Euthanasia means the human destruction of an animal accomplished by a method that involves instantaneous unconsciousness and immediate death or by a method that involves anesthesia, produced by an agent which causes painless loss of consciousness, and death during such loss of consciousness.

Exotic bird means any bird that is not a species native to the United States.

Feral animal means any domesticated animal that was formerly owned or has been abandoned and is no longer socialized, or any animal born outdoors that has not been socialized.

Foster care provider means an individual who provides care or rehabilitation for companion animals through an affiliation with a pound, animal shelter, or other releasing agency.

Foster home means a private residential dwelling and its surrounding grounds at which site through an affiliation with a pound, animal shelter, or other releasing agency care or rehabilitation is provided for companion animals.

Home-based rescue or animal rescue organizations means any person or organization that accepts (i) more than 12 companion animals or (ii) more than nine companion animals and more than three unweaned litters of companion animals in a calendar year for the purpose of finding permanent adoptive homes for the companion animals and houses the companion animals in a private residential dwelling or uses a system of housing companion animals in private residential foster homes.

Housing facility or facility means a building, other than a private residential dwelling and its surrounding grounds, ~~any room, building or area~~ used to contain a primary enclosure or enclosures in which animals are housed or kept.

Humane means any action taken in consideration of and with the intent to provide for the animal's health and wellbeing.

Humane care and treatment shall include, but not be limited to, the protection of animals

from direct sun rays in the summer and freezing cold in the winter and the maintenance of food and water bowls in a separate and clean manner. The bowls should be sufficiently secured so that they cannot be easily overturned.

Humane investigator means a person who has been appointed by a circuit court as a humane investigator as provided in Virginia Code § 3.1-796.106.

Humane society means any incorporated, nonprofit organization that is organized for the purposes of preventing cruelty to animals and promoting humane care and treatment or adoptions of animals. ~~chartered, not-for-profit organization incorporated under the laws of this state and organized for the purpose of preventing cruelty to animals and promoting humane care and treatment of animals.~~

Kennel means any establishment in which five or more canines, felines, or hybrids of either are kept for the purpose of breeding, hunting, training, renting, buying, boarding, selling, or showing.

Law-enforcement officer means any person who is a full-time or part-time employee of a police department or sheriff's office that is part of or administered by the Commonwealth or any political subdivision thereof and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth. Part-time employees are compensated officers who are not full-time employees as defined by the employing police department or sheriff's office.

Livestock includes all domestic or domesticated: bovine animals; equine animals; ovine animals; porcine animals; cervidae animals; capradae animals; animals of the genus Lama; ratites; fish or shellfish in aquaculture facilities, as defined in Virginia Code § 3.1-73.6 enclosed domesticated rabbits or hares raised for human food or fiber; or any other individual animal specifically raised for food or fiber, except companion animals.

Local ordinance means any law, rule, regulation, or ordinance promulgated by the governing body of any county, city, or town.

Locality or local government means a county, city, or town, as the context may require.

Nuisance means excessive, continuous or untimely barking, molesting of passersby, chasing vehicles, attacking other domestic animals, or unwelcome trespassing upon school grounds, private or public property.

Other officer includes all other persons employed or elected by the people of Virginia or by ~~the city~~ any municipality, county, or incorporated town thereof, whose duty it is to preserve the peace, to make arrests or to enforce the law.

Owner means any person who has a right of property in an animal, keeps or harbors an animal, has an animal in his care or acts as custodian of an animal.

Person means any individual, partnership, firm, joint-stock company, corporation, association, trust, estate or other legal entity.

Pet shop means an establishment where companion animals are bought, sold, exchanged or offered for sale or exchange to the general public.

Poultry includes all domestic fowl and game birds raised in captivity.

Pound means a facility operated by the Commonwealth or any locality ~~city~~ for the purpose of impounding or harboring seized, stray, homeless, abandoned or unwanted animals, or a facility operated for the same purpose under a contract with any county, ~~the~~ city, town, or incorporated society for the prevention of cruelty to animals.

Primary enclosure means any structure used to immediately restrict an animal or animals to a limited amount of space, such as a room, pen, cage, compartment or hutch. For tethered animals, the term includes the shelter and the area within reach of the tether.

Research facility means any place, laboratory or institution licensed by the U.S. Department of Agriculture at which scientific tests, experiments or investigations involving the use of living animals are carried out, conducted or attempted.

Sanitize means to make physically clean and to remove and destroy, to a practical minimum, agents injurious to health.

Treasurer means the city treasurer and his assistants or other officer designated by law to collect taxes in the city.

Treatment or adequate treatment means the responsible handling or transportation of animals in the person's ownership, custody or charge, appropriate for the age, species, condition, size and type of the animal.

Veterinary care or treatment means treatment by or on the order of a duly licensed veterinarian and shall include, but not be limited to, immunization of animals against distemper, hepatitis, leptospira (DHL), rabies and parvo virus, and a periodic check for tape, round, hook, whip and heart worms.

(Ord. No. 735, § 4-2, 11-10-82)

State law reference-Similar definitions, Code of Virginia, § 3.1-796.66.

Sec. 5-4. Animal ~~Warden~~ Control Officer and pound generally.

- (a) The city council shall appoint or designate an officer to be known as the animal ~~warden~~ control officer, who shall have the power to enforce this chapter and other ordinances and state laws for the protection of domestic animals. Within the limits of the appropriations therefore, the city council may also appoint one (1) or more deputy animal ~~wardens~~ control officers to assist the animal ~~warden~~ control officer in ~~inspection and enforcement activities~~ the performance of his duties.

- (b) An animal pound shall be maintained by the city in accordance with the requirements deemed necessary by the city council and of a type approved by the health department. All dogs found running at large without the tag required by Sec. 5-58, or in violation of 5-38 and all cats found running at large in violation of Sec.5-38 shall be confined therein. The city need not own such pound but may contract for its establishment with a private group alone or in conjunction with one (1) or more other local political subdivisions of the state.
- (c) The pound provided for in this section shall be accessible to the public at reasonable hours during the week and meet all other requirements stated in Chapter 27.4 of the Code of Virginia.

(Ord. No. 735, § 4-13, 11-10-82; Ord. No. 764, § 4-13, 12-14-83)

State law reference- ~~Duty to appoint animal warden and maintain pound,~~
Position of animal control officer created, Code of Virginia, §§ 3.1-796.104, 3.1-796.96

Sec. 5-5. Qualifications and training of animal control officer and deputy animal control officer ~~persons operating pound;~~ authority of animal ~~warden~~ control officer and deputy animal ~~wardens~~ control officers.

- (a) Animal control officers and deputy animal control officers shall have a knowledge of the animal control and protection laws of Virginia and the city's animal control ordinances which they are required to enforce. All animal control officers and deputy animal control officers shall also complete the state mandated training as outlined in Virginia Code Section 3.1-796.104:1
~~The animal warden, deputy animal wardens, custodians or animal control officers engaged in the operation of a pound shall be required to have knowledge of the laws of the commonwealth governing animals, including the provisions of the Comprehensive Animal Laws and the city's animal control ordinances, as well as basic animal care. They may avail themselves of any training courses offered by the commonwealth for law enforcement officers or for humane investigators.~~
- (b) When in uniform or upon displaying a badge or other credentials of office, ~~the~~ animal ~~warden~~ control officers and deputy animal control officers ~~wardens~~ shall have the power to issue a summons or obtain a felony warrant as necessary, providing the execution of such warrant shall be carried out by any law-enforcement officer as defined in Virginia Code § 9.1-101, to any person found in the act of violating any laws or ordinances pertaining to animals.

(Ord. No. 735, § 4-41, 11-10-82; Ord. No. 784, 9-26-84)

State law references-Similar provisions, Code of Virginia §§ 3.1-796.104, 3.1-796.104:1

Sec. 5-6. Violation of chapter by animal ~~warden~~ control officer, shelter or pound custodian.

- (a) No animal control officer or custodian of any pound or animal shelter shall (i) obtain the release or transfer of an animal by the animal's owner to such animal

control officer or custodian for personal gain or (ii) give or sell or negotiate for the gift or sale to any individual, pet shop, dealer, or research facility of any animal which may come into his custody in the course of carrying out his official assignments. No animal control officer or custodian of any pound or animal shelter, nor any member or employee of the firm, partnership or corporation of said pound or animal shelter shall be granted a dealer's license under Section 5-73. Violation of this subsection shall be a Class 1 misdemeanor. Nothing in this section shall preclude any animal control officer from lawfully impounding any animal pursuant to Article V of the Hampton City Code.

- (b) ~~If the~~ Any animal ~~warden~~ control officer or custodian of any pound who violates any provision of ~~this~~ Chapter 5 of the Hampton City Code which relates to the seizure, impoundment and custody of animals by an animal ~~warden~~ control officer ~~he~~ may be subject to suspension or dismissal from his position.

(Ord. No. 735, § 4-41, 11-10-82)

State law reference – Similar provisions, Code of Virginia, § 3.1-796.105.

Article III. DOGS AND CATS GENERALLY*

Sec. 5-37. Dogs and cats deemed personal property; rights relating thereto.

All dogs and cats shall be deemed personal property and may be the subject of larceny and malicious or unlawful trespass, and the owners thereof may maintain any action for the killing of such dogs or cats, or injury thereto, or unlawful detention or use thereof, as in the case of other personal property. The owner of any dog or cat which is injured or killed contrary to the provisions of this chapter by any person shall be entitled to recover the value thereof or the damage done thereto in an appropriate action at law from such person. The animal control officer ~~warden~~ or other officer finding a stolen dog or cat or a dog or cat held or detained contrary to law shall have authority to seize and hold such dog or cat pending action before the general district court or other court. If no such action is instituted within seven (7) days, the animal control officer ~~warden~~ or other officer shall deliver the dog or cat to its owner. The presence of a dog or cat on the premises of a person other than its legal owner shall raise no presumption of theft against the owner and the animal control officer ~~warden~~ may take such dog or cat in charge and notify its legal owner to remove him. The legal owner of a dog or cat shall pay a reasonable charge for the keep of such dog or cat while in the possession of the animal control officer ~~warden~~, such charge not to exceed that prescribed in section 5-38.

(Ord. No. 735, § 4-12, 11-10-82)

State law reference-Similar provisions, Code of Virginia, § 3.1-796.127.

Sec. 5-38. Running at large.

- (a) Dogs
- (1) It shall be unlawful for any person to permit any dog owned or kept by him to run or go at large within the city, whether such dog is licensed

or not.

- (2) ~~Except as provided in subsection (a)(2) below, conviction of a first offense under this section shall result in a fine of not less than twenty dollars (\$20.00) nor more than fifty dollars (\$50.00). Conviction of a subsequent offense under this section, within a twelve-month period, shall result in a fine of not less than twenty-five dollars (\$25.00) nor more than one-hundred dollars (\$100.00).~~ The first violation of this section shall constitute a class 4 misdemeanor. The second violation on the same animal shall constitute a class 3 misdemeanor and subsequent violations on the same animal shall constitute a class 2 misdemeanor. Any owner cited for 3 violations of this section, may have his animals impounded or spayed and neutered at the owner's or custodian's expense.
- (3) A violation of this subsection (a) shall constitute a Class 2 misdemeanor if the dog, while at large within the city, attacks a human being or another animal without provocation. ~~and prior to such attack had a known propensity, tendency or disposition to attack a human being or animal without provocation.~~

(b) Cats

- (1) It shall be unlawful for any person to permit any cat owned or kept by him to run or go at large within the city unless the cat is spayed or neutered and properly licensed in accordance with Article IV, Sections 5-51 through 5-60 of the Hampton City Code.
- (2) However, it shall be unlawful for any person to permit any cat owned or kept by him to run at large if said cat habitually causes destruction or damage to the property of another or creates a nuisance.
- (3) The first violation of this section shall constitute a class 4 misdemeanor. The second violation on the same animal shall constitute a class 3 misdemeanor and subsequent violations on the same animal shall constitute a class 2 misdemeanor. Any owner cited for 3 violations of this section, may have his animals impounded or spayed and neutered at the owner's or custodian's expense.

(c) It shall be the duty of the animal ~~warden~~ control officer or other officer who may find any dog or cat running at large in violation of Section 5-38 (a) and (b), respectively, to forthwith take the animal into custody and dispose of it in the following manner

- (1) The dog or cat shall be impounded in the animal shelter for a period of not less than five (5) days, such period to commence on the day immediately following the day the animal is initially confined in the facility, unless sooner claimed by the rightful owner thereof. The

operator or custodian of the animal shelter shall make a reasonable effort to ascertain whether the animal has a collar, tag, license, tattoo, or other form of identification and make a reasonable effort to notify the owner of the animal's confinement within the next 48 hours following its confinement. If such identification is found on the animal, the animal shall be held for an additional five (5) days, unless sooner claimed by the rightful owner. If the owner or keeper of the dog or cat is known, or the owner can be reasonably ascertained through a collar, tag, license, tattoo or other form of identification, the animal ~~warden~~ control officer or deputy animal ~~warden~~ control officer shall issue a summons within twenty-four (24) hours to such owner directing him to appear in court and answer charges for violation of this section. If the identity of the owner cannot be ascertained at the time of impoundment, then the summons shall be issued at such time as the owner shall reclaim the dog or cat.

- (2) In all cases under this section, the owner may, upon proof of ownership, redeem the dog within ~~five (5) days~~ the prescribed period of time as stated in subsection (1) and ~~after such seizure~~ upon proof of ownership and payment of the actual expenses incurred in keeping the animal impounded. The fee for redeeming the dog shall be the sum of twenty dollars (\$20.00) for the first twenty-four (24) hours or portion thereof and the sum of five dollars (\$5.00) for each succeeding day or fraction thereof; provided, however, that the minimum payment shall be twenty dollars (\$20.00). For each subsequent impoundment within a twelve-month period, the owner may redeem the dog within ~~five (5) days~~ the prescribed period of time as stated in subsection (1) ~~of seizure~~ upon payment of the sum of twenty-five dollars (\$25.00) for the first twenty-four (24) hours or portion thereof and the sum of five dollars (\$5.00) for each succeeding day or fraction thereof; provided, however, that the minimum payment in such cases shall be twenty-five dollars (\$25.00).
- (3) In all cases under this section, the owner may redeem the cat, within the prescribed period of time as stated in subsection (1), upon proof of ownership, payment of the actual expenses incurred in keeping the animal, and proof of proper rabies inoculation in accordance with Section 5-100 of the Hampton City Code. The fee for redeeming the cat shall be the sum of twenty dollars (\$20.00) for the first twenty-four (24) hours or portion thereof and the sum of five dollars (\$5.00) for each succeeding day or fraction thereof; provided, however, that the minimum payment shall be twenty dollars (\$20.00). For each subsequent impoundment within a twelve-month period, the owner may redeem the cat within the prescribed period of time as stated in subsection (1) upon payment of the sum of twenty-five dollars (\$25.00) for the first twenty-four (24) hours or portion thereof and the sum of five dollars (\$5.00) for each succeeding day or fraction thereof; provided, however, that the minimum payment in such cases shall be twenty-five dollars (\$25.00).

- (4) If at the end of the ~~five-day~~ prescribed holding period the dog **or cat** in question shall have not been redeemed, such **animal** shall be deemed abandoned and disposed of by giving it into the possession of any person ~~willing to pay the costs of redemption provided for in this section and the required license fee, if any, or it may be humanely destroyed.~~ in accordance with the provisions of section 3.1-796.96 of the Code of Virginia. No animal shall be released to any person, organization, or agents hereof, for the purposes of scientific or medical experimentation. No provision herein shall prohibit the destruction of a critically ill dog **or cat** for humane purposes. **Any cat disposed of under this section shall be spayed or neutered prior to release for adoption from the animal shelter.**
- (5) **Cats identified as part of a managed feral cat colony in accordance with the provisions of section 5.43 shall be exempted from the requirements of Section 5-38(b)(1) only.**

(Ord. No. 735, § 4-14, 11-10-82; Ord. No. 764, § 4-14, 12-14-83; Ord. No. 1128, 9-28-94)

State law reference-Authority of city to prohibit dogs running at large and to impound such dogs, Code of Virginia, §§ 3.1-796.93, ~~15.1-870~~, 3.1-796.96 and 3.1-796.100.

Sec. 5-39. Female dogs **and cats in heat.**

No person shall permit any female dog **or cat** in heat to go at large in the streets or remain on his premises to the annoyance of the neighborhood. Each day that a dog **or cat** is allowed to remain on such person's premises to the annoyance of the neighborhood shall be considered a separate violation of this section.

(Ord. No. 735, § 4-15, 11-10-82)

Sec. 5-43. Unlawful Care of Feral Cats.

- (a) **It is unlawful for any person to intentionally provide food, water, or other forms of sustenance to a feral cat or feral cat colony unless the person has furnished a signed statement to the Animal Control Officer agreeing to comply with the following conditions. Those persons who have furnished a signed statement to the animal control officer agreeing to comply with the conditions contained in this section are exempt from the requirements of Article IV of this Chapter, entitled Dog and Cat Licenses.**
- (1) **Annual registration with the Animal Control Officer as a person caring for feral cat(s) or a feral cat colony. There will be no costs associated with this registration. The registrant shall be deemed the owner or custodian of the cat(s) for purposes of this chapter.**
- (2) **Provide documentation of support by surrounding neighbors of proposed location for feral cat colony.**
- (3) **Assure responsibility and arrangements for feeding and providing emergency veterinarian treatment as needed to the cat or cat colony regularly throughout the year, including weekends, holidays and vacations**

- and in the absence of the caregiver.
 - (4) Regular and frequent trapping through use of humane box traps of cats over the age of eight (8) weeks to have them spayed or neutered.
 - (5) It is highly recommended that all trapped cats be tested for feline leukemia, and to have those who test positive humanely euthanized or isolated indoors.
 - (6) Identify all sterile cats by tipping their ears (tipping to be done by a licensed veterinarian); micro chipping is recommended but not required.
 - (7) Arrange to have all trapped cats spayed or neutered and vaccinated for rabies in addition to any other vaccination or immunization requirement imposed by the Commonwealth. It is recommended that such cats be vaccinated for distemper.
 - (8) Any animal known to have an infectious, untreated disease shall not be released back to the colony or any other outdoor environment where the disease can be spread to uninfected animals.
- (b) It shall be the duty of the animal control officer or a deputy animal control officer to issue notice of non-compliance specifying that the caregiver has 48 hours to provide a written response including how the colony will be brought into compliance within a 90 day time period. The caregiver shall make weekly progress reports to the animal control officer.
 - (c) Failure to comply with any provision of this section shall constitute a violation of this section as well as Sec. 5-38 and subject to penalties thereof.

***Cross reference-**Dogs prohibited on beaches during certain periods, §7-49.

State law references-~~Dog~~ Animal laws, Code of Virginia, §§ 3.1-796.93-3.1-796.100; authority of city to adopt ordinance paralleling state dog laws, § 3.1-796.94.

Article IV. DOG AND CAT LICENSES

Sec. 5-51. Required.

It shall be unlawful for any person to own a dog or cat four (4) months or older in this city, unless such dog or cat is licensed under the provisions of this article.

(Ord. No. 735, § 4-16, 11-10-82; Ord. No. 1128, 9-28-94)

State law reference-Similar provisions, Code of Virginia, § 3.1-796.85.

Sec. 5-52. Application; applicant must be city resident.

- (a) Any resident of the city may obtain a dog or cat license by making oral or written application to the city treasurer, accompanied by the amount of the license tax, the certificate referred to in section 5-57 and proof that the dog or cat has been spayed or neutered, when applicable. The treasurer shall only have authority to license dogs or cats of resident owners or custodians who reside within the limits of the city and may require information to this effect from any applicant.

- (b) It shall ~~be unlawful~~ constitute a class 4 misdemeanor for any person to make any false statement in, or present any false evidence with, an application submitted under this section, in order to secure a dog **or cat** license to which such person is not entitled.

(Ord. No. 735, §§ 4-19, 4-26, 11-10-82)

State law reference-Similar provision, Code of Virginia §§ 3.1-796.86, 3.1-796.128.

Sec. 5-53. Tax imposed.

- (a) A license tax is hereby imposed on dogs **and cats** required to be licensed under this article in the following amounts:

- (1) Male or female dog **or cat**..... \$ **10.00**
- (2) Unsexed dog **or cat** (neutered or spayed).....\$ **4.00**
- (3) Kennel for ten (10) or less **dogs or cats**\$ **30.00**
- (4) **Kennel for eleven (11) to thirty (30) dogs or cats**\$ **40.00**
- (5) **Kennel for thirty-one (31) to fifty (50) dogs or cats**.....\$ **50.00**

Kennel to be defined in accordance with Sec. 5-2 of the Hampton City Code for the purposes of this section.

- (b) No license tax shall be levied on any dog that is trained and serves as a guide dog for a blind person, ~~or~~ that is trained and serves as a hearing dog for a deaf or hearing-impaired person or that is trained and serves as a service dog for a mobility-impaired person. As used in this subsection, the term “hearing dog” means a dog trained to alert its owner by touch to sounds of danger and sounds to which the owner should respond and “service dog” means a dog trained to accompany its owner for the purpose of carrying items, retrieving objects, pulling a wheelchair or other such activities of service or support.

(Ord. No. 735, § 4-20, 11-10-82)

State law reference-Duty of city to impose dog license tax, limit on amount thereof and provisions similar to subsection (b) above, Code of Virginia, § **3.1-796.87**.

Sec. 5-54. When tax due and payable.

- (a) The license tax on dogs **and cats** imposed by section 5-53 shall be due and payable as follows:

- (1) On January first and not later than January thirty-first of each year, the owner of any dog **or cat** four (4) months old or older shall pay such tax.
- (2) If a dog **or cat** shall become four (4) months of age or comes into the possession of any person between January first and November first of any year, the license tax for the current calendar year shall be paid forthwith by the owner.
- (3) If a dog **or cat** shall become four (4) months of age or come into the

possession of any person between October thirty-first and December thirty-first of any year, the license tax for the succeeding calendar year shall be paid forthwith by the owner and such license shall protect such dog **or cat** from the date of purchase.

(Ord. No. 735, § 4-21, 11-10-82; Ord. No. 1128, 9-28-94)

State law reference-Similar provisions, Code of Virginia, § 3.1-796.88.

Sec. 5-55. Failure to pay tax when due.

It shall be unlawful for any person to fail to pay the dog **or cat** license tax imposed by this article when the same is due. Payment of such license tax subsequent to a summons to appear before a court for failure to do so within the time required shall not operate to relieve such owner from the penalties provided for such failure. It shall constitute a Class 4 Misdemeanor for any dog or cat owner to fail to pay any license tax required by this chapter before February 1 for the year in which it is due.

(Ord. No. 735, § 4-18, 11-10-82)

State law reference-Similar provisions, Code of Virginia, §§ 3.1-796.103, 3.1-796.128.

Sec. 5-56. Disposition of taxes collected.

All taxes collected pursuant to this article shall be used to defray the costs of animal control in accordance with Section 3.1-796.101 of the Code of Virginia and shall be kept separate from other funds collected by the treasurer.

(Ord. No. 735, § 4-20, 11-10-82)

State law reference-Authority for above section, Code of Virginia, § 3.1-796.101.

Sec. 5-57. Issuance, composition and contents of license.

- (a) Upon receipt of a proper ~~license~~ application and the prescribed license tax, the treasurer shall issue a dog **or cat** license receipt; provided, however, that no such license shall be issued, unless the applicant presents to the treasurer an unexpired certificate, signed by a licensed veterinarian, issued pursuant to section 5-100, certifying the dog **or cat** to be licensed has been vaccinated in accordance with the provisions of such section or is exempted as set forth in such section. Upon the issuance of the license receipt, the treasurer shall make a notation of the date of such issuance on such certificate and return the certificate to the applicant.
- (b) Each dog **or cat** license shall consist of a license tax receipt and a metal tag. Such receipt shall have recorded thereon the amount of the tax paid, the name and address of the owner or custodian of the dog **or cat**, the date of payment, the year for which the dog **or cat** is licensed, the serial number of the tag and whether the license is for a male, female or unsexed male or female dog **or cat** or for a kennel. This information shall be retained by the treasurer and shall be open for public inspection during the period for which such license is valid.

- (c) The metal tag issued under this section shall be stamped or otherwise permanently marked to show the name of the city, the sex of the dog or cat and the calendar year for which issued and shall bear a serial number.

(Ord. No. 735, §§ 4-19, 4-25, 11-10-82)

State law reference-Similar provisions, Code of Virginia, §§ 3.1-796.86, 3.1-796.90, 3.1-796.97.

Sec. 5-58. Preservation and exhibition of license receipt; tag to be worn by dog; exceptions.

- (a) A dog or cat license receipt issued under this article shall be carefully preserved by the person to whom issued and exhibited promptly on request for inspection by the animal warden control officer or other officer.
- (b) A dog license tag issued under this article shall be securely fastened to a substantial collar by the owner or custodian and worn by the dog for which it was issued. It shall be unlawful for the owner to permit any licensed dog four months old or older to run or roam at large at any time without a license tag. The owner of the dog may remove the collar and license tag required by this section when:
 - (1) The dog is engaged in lawful hunting.
 - (2) The dog is competing in a dog show.
 - (3) The dog has a skin condition which would be exacerbated by the wearing of a collar.
 - (4) The dog is confined.
 - (5) The dog is under immediate control of the owner.
- (c) Any dog or cat not wearing a collar bearing a license tag for the proper calendar year shall prima facie be deemed to be unlicensed and, in any proceeding under this article, the burden of proof of the fact that the dog or cat has been licensed, or is otherwise not required to bear a tag at the time, shall be on the owner of the dog or cat.

(Ord. No. 735, § 4-22, 11-10-82)

State law reference-Similar provisions, Code of Virginia, §§3.1-796.89, 3.1-796.92.

Sec. 5-59. Duplicate tags.

If a dog or cat license tag shall become lost, destroyed or stolen, the owner or custodian shall at once apply to the treasurer for a duplicate license tag, presenting the original license receipt. Upon affidavit of the owner or custodian before the treasurer that the original tag has been lost, destroyed or stolen, the treasurer shall issue a duplicate license tag, which the owner or custodian shall immediately affix to the collar of the dog. ~~The treasurer shall endorse the number of the duplicate license tag, which the owner or custodian shall immediately affix to the collar of the dog.~~ The treasurer shall endorse the number of the duplicate and the date issued on the face of the original license receipt. The fee for the duplicate tag for any dog or cat shall be one dollar (\$1.00).

(Ord. No. 735, § 4-19, 11-10-82)

State law reference-Similar provisions, Code of Virginia, § 3.1-796.91.

Sec. 5-60. Disposition of unlicensed dogs and cats found running at large.

- (a) It shall be the duty of the animal ~~warden~~ control officer or other officer (1) to capture ~~and euthanize~~ any dog of unknown ownership found running at large on which the license tax imposed by this article has not been paid and deliver such animal to the pound or shelter, and (2) to capture any cat found running at large on which the license tax imposed by this article has not been paid and has not been spayed or neutered in accordance with Section 5-38 (b) and deliver such animal to the pound or shelter. Such animal shall be disposed of in accordance with Virginia Code § 3.1-796.96. ~~; provided, that the animal warden or other officer may deliver such dog to any person in the city who will pay the required license tax on such dog, with the understanding that should the legal owner thereafter claim the dog and prove his ownership, he may recover such dog by paying to the person to whom it was delivered by the animal warden or other officer the amount of the license tax paid by such person and a reasonable charge for the keep of the dog while in his possession. However, no dog shall be released to any person or organization, or agent thereof, for the purpose of scientific or medical experimentation.~~
- (b) Any person, animal ~~warden~~ control officer or other officer euthanizing a dog or cat under this section shall cremate, bury or sanitarily dispose of the same.
- (c) Prior to the disposition, by euthanization or otherwise, of any dog or cat under this section, all of the provisions of section 5-38 shall be complied with.
- (Ord. No. 735, § 4-23, 11-10-82)

State law reference-Similar provisions, Code of Virginia, §§ 3.1-796.96, 3.1-796.96:2, 3.1-796.121.

***Cross reference**-Licenses generally, Ch. 18.

Adopted at a regular meeting of the City Counsel of the City of Hampton, Virginia held _____, 2004.

Mayor

Clerk

